



# Town of Colchester

Ethics Framework &  
Concerns with DR 24-0461  
February 28, 2024



# Ethics Overview

## Town Charter (our local Constitution)

- Two sections on Ethics and Conflicts
- Requires Ethics Policy
- Requires that Elected, Appointed and Staff Comply!

### Charter (2018 Charter Change):

Sec. 901. Ethical conduct. Every officer, elected official, employee, or appointee, in the service of the Town shall abide by standards of ethical conduct established by the Town and shall not hold investments or render services that conflict with or impair the proper discharge of that person's duties or voting authority that cannot be remedied by recusal. No person shall receive any gift or remuneration on account of or in connection with proceedings before any municipal agency in which the person has jurisdiction, nor disclose confidential information acquired by that officer or employee in the course of official duties.

Sec. 902. Conflict of Interest Policy. The Selectboard shall adopt a policy regarding ethics and conflict of interest and the means to adjudicate any potential or reported conflicts. This policy shall be published on the Town's website and provided to and signed by every officer, elected official, employee, and appointee to boards or commissions. This policy shall be reviewed, updated by the Selectboard, and signed by those affected at five-year (5-year) intervals or upon appointment.

# Ethics Overview

## Selectboard Policies: 13 of 26 address Ethics:

- **Code of Ethics** approved in 2009 before state suggestion in legislation, before State Ethics Board, and before model policy--most recent update 1/26/21; **Delinquent Tax Policy:** 9/1/02; **Employee Handbook:** 5/28/19; **Fraud Prevention Policy:** 7/24/12; **Identity Theft Policy:** 9/8/09; **Investment Policy:** 4/28/22; **Parks and Recreation Background Checks:** 5/24/16; **Selectboard General Order #1: Police Department Administration and Police Handbook:** 11/15/23; **Purchasing Policy:** 2/9/10; **Right of Way Policy:** 11/13/07; **Tax Collection Policy:** 7/14/98; **Sexual and Other Harassment:** 5/24/16; **Social Media Policy** 4/12/16; **Surplus Property (Land) Policy:** 11/27/12
- **Other Policies:** Cemetery Rules and Regulations: 2/28/17; Drug and Alcohol Free Workplace: 5/24/16; Energy Committee Policy: 10/22/19; Fixed Asset Capitalization and Disposition Policy: 4/14/15; Fund Balance Policy: 3/8/16; Liquor License Approval Policy: 1/28/16; Naming Park Policy: 4/10/07; Smoking Policy: 9/28/10; Snow and Ice Policy: 7/9/13; Traffic Calming Policy: 5/14/02; Fair Housing; Use of Excessive Force; and Drug Free Workplace Act of 1988





# Ethics Overview

## Board of Ethics

- Created by Selectboard Policy in 2009
- Only Town Board besides Selectboard directly supported by Town Manager, Deputy Town Manager, and Town Attorney
- Evolved our policy, so that it is not just a policy, but an Ethics Framework: Charter Sections on Ethics; Ethics Policy; Board of Ethics
- Board of Ethics worked with attorneys to create polices for elected and appointed officials and employees based on the unique and different situations that can arise based on State Law, our Charter, and Town Policies which segregate responsibilities differently than many other communities
  - Purchasing and contract awards—a big risk for ethics--are done by staff with appeals to the Selectboard
  - Employment-another risk for ethics-is done by manager with appeals to the Selectboard
- **Powers:** Interpret Ethics Policy and state law; Review Complaints Investigate and report to Selectboard on alleged violations; Summon witnesses and hold hearings and fact finding; Render opinions on complaints; Recommend sanctions, suspensions or removal to Selectboard



# Ethics Overview

## Elected and Appointed Officials: Local & Regional ~85 people

- Appointees must read the Ethics Policy and agree, in writing, to follow the policy before even applying for appointed roles
- Elected officials must acknowledge, in writing, after election, that they have received and will follow the policy
- Code requires officials receive, acknowledge and agree to comply with current copy of the Code Annually
- Regular training for Selectboard, Ethics Board, and Development Review Board (authority independent from Selectboard)
- Support of Board and Commission Chairs from designated staff, Town Manager/Deputy and as needed, Town Attorney: Statutes/Charter/Town Policy/Open Meeting/Posting/Minutes/Relation to Other Boards
- Must agree in writing, **“I have received the amended Town of Colchester’s Code of Ethics dated January 26, 2021. I have read and understand the amended Code of Ethics. I agree to adhere to this Code.”**

# Ethics Overview

## Code of Ethics In Summary (1 of 2)

- **Defines Purpose:** “Public service is public trust. The affairs of government must be conducted openly, honestly and impartially, so that the public’s confidence in the integrity of its municipal affairs shall be maintained. The purposes of this Code are to set forth standards of ethical conduct; to assist Officials and Public Bodies in establishing policy for their conduct; and to develop and maintain a tradition of responsible and effective public service. Municipal employees, including the Town Manager are responsible to comply with ethical standards in a series of municipal policies and procedures, which are more comprehensive than this Code. Additionally, there are employment and labor laws that apply to employees and relate to the municipal policies and procedures which the Human Resources Director, Town Manager, Town Attorney, and in some cases the Selectboard are involved in adjudicating.”
- **Definitions:** Who is covered; Conflict of Interest (real or seemingly) financial, indirect financial, non-financial, relationship affecting, pre-judgement of quasi-judicial issue; and ex parte communications, Independence, Family, Close personal friend, and Recusal
- **Conflict of Interest:** Gifts or Favors prohibited; Appointment of Immediate Family or Close Personal Friend Prohibited; Financial gain due to advance knowledge of town actions prohibited; Conflicting private employment prohibited; Use of confidential information for personal gain prohibited; Recusal required in when conflicts arise.
- **Disclosure of Conflict:** Required before issue comes before board; Recommends Leaving room, No debating with board; No Voting on issue; No advocating.
- **Incompatibility of Office:** Prohibits employment with Town; Prohibits hiring family or close friend as auditor or attorney; Prohibits staff from holding certain elected and appointed roles; Prohibits certain elected and appointed roles from holding appointed roles which create conflicts.



# Ethics Overview

## Code of Ethics In Summary (2 of 2)

- **Standards of Conduct:** Use of public property for personal convenience or gain prohibited; Disclosure of interest in policy required; Representation before Town for Fees prohibited; No requests of funds for political activities while representing the Town, No threatening or retaliation for lack of support for advocacy or political activity; Location and situations for soliciting petitions restricted to exclude request from Town employees while at work.
- **Board of Ethics:** See prior page
- **Code Violations:** Process, including process if violation includes someone to whom a complaint might be filed to avoid possible conflicts within the Ethics process itself (including alternate counsel if allegations against Town Attorney)
- **Procedure upon Complaint:** Set meeting; Open Meeting Law; Board Policy; Oral evidence under oath; Rights of complainant and of respondent; Determination of violation; Towns responsibility to Ethics Board members if board becomes party to legal process (representation and hold harmless)
- **Remedies:** Board of Ethics shall make findings and recommendations to the Selectboard based on relevant statutory law, regulations, or policy; Findings and recommendations to Selectboard are advisory; Votes of public bodies are voidable if an official did not disclose and recuse and the issue would not have passed without their vote; Matter would be re-voted.
- **Distribution:** To all elected and appointed officials upon taking office and annually with written acknowledgement of requirement to follow code.



# Ethics Overview

From Governance and Town Manager's Town Web Pages:

## CODE OF ETHICS

Public service is public trust. The affairs of government must be conducted openly, honestly and impartially, so that the public's confidence in the integrity of its municipal affairs shall be maintained. The purposes of the Code of Ethics are:

1. To set forth standards of ethical conduct;
2. To assist Public Officials and Public Members in establishing policy for their conduct
3. And to develop and maintain a tradition of responsible and effective public service.

Municipal employees are responsible to comply with ethical standards in a series of municipal policies and procedures, in fact, far more than in this Code.

Very briefly, a Town official may not engage in any act which is in conflict with, or creates an appearance of conflict with, the performance of official duties.

Click on the link to read the complete [Code of Ethics](#).





# Ethics Overview

## Staff

- Employees must review and agree, in writing to the Ethics policy on their first day at work, during orientation with the Human Resources Director and After updates to any part of Employee Manual, of which Ethics Policy is a key component
- Regular training on “Ethical Decision Making in the Workplace” upon employment and every two years
- Training for Department heads on conflicts and scenarios with Town attorney
- Town staff who support boards receive training along with boards
- Internal polices put forward by Finance on cash receipts and cash handling
- Ethics is addressed in many areas of ongoing professional education from supervision, to diversity, to purchasing, to land acquisition, to personal information and the other 13 policies of the Selectboard

## External CPA Auditor

- Town Charter requires an external CPA Auditor to audit our financial statements annually. The Selectboard hires this firm. The Auditor reports directly to the Selectboard, independent of the Town Manger, Finance Director and Town Clerk, on behalf of the Taxpayers. The auditor interviews Selectboard members privately, and has the authority to interview any staff member for any reason. The auditor reviews our inventories and capital assets, requires disclosures of changes in all town departments, reviews them for risk and the Town is audited under the same standards as a company listed on a national stock exchange.

# Alternative local solution

- Ethics and conflict of interest is a fundamental role of a self-governing organization
- In 2019, state law on municipal ethics, 24 V.S.A. § 1984 and 2291, was updated and the “may” have a local ethics policy was importantly changed to “shall
- VLCT provided significant guidance and a model policy.
- With the arrival of COVID in early 2020, Vermont state and local governments generally temporarily ignored this change and focused their attention and efforts at the time, on keeping the majority of their residents alive and healthy.
- A better approach to a half million dollar & unenforceable state mandate would be to model, train and implement what we have.



# Colchester

VERMONT



Thank You!